

The opinion in support of the decision being entered today was *not* written for publication and is *not* binding precedent of the Board.

Paper No. 18

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte IAN C. CALLAGHAN,
GRACE ABAMBA,
ROBERT KINSLEY,
TIMOTHY I. MOODYCLIFFE,
and
RICHARD P. WOODBURY

Appeal No. 2000-1038
Application No. 08/888,042

ON BRIEF

Before PAK, TIMM, and MOORE, ***Administrative Patent Judges***.

PAK, ***Administrative Patent Judge***.

DECISION ON APPEAL

This is a decision on an appeal under 35 U.S.C. § 134 from the examiner's final rejection of claims 23, 24, 27 and 28, which are all of the claims pending in the above-identified application.

Appeal No. 2000-1038
Application No. 08/888,042

Claim 23 is representative of the subject matter on appeal and reads as follows:

23. A method for cleaning limescale from a surface which comprises applying a biodegradable aqueous acid cleaning composition, said composition comprising iminodiacetic acid;

from 0.2 weight percent to 6 weight percent based on the total weight of said composition of a thickener selected from the group consisting of biopolymers, cross-linked polyacrylates, modified polyacrylates, and mixtures thereof; and

an enzyme mixture, wherein said mixture comprises a plurality of enzymes selected from the group consisting of carbohydrase enzymes, gluconase enzymes and mixtures thereof;

wherein said composition has a pH of 0.1-5.

The sole prior art reference relied upon by the examiner is:

Carpenter et al. (Carpenter)	5,238,843	Aug.
	24, 1993	

Claims 23, 24, 27, and 28 stand rejected under 35 U.S.C. § 103 as unpatentable over the disclosure of Carpenter.¹

We have carefully evaluated the claims, specification,

¹ The examiner has withdrawn the rejection of claims 23, 24, 27, and 28 under 35 U.S.C. § 112, second paragraph, set forth in the final Office action dated November 17, 1998. See Answer, page 3.

Appeal No. 2000-1038
Application No. 08/888,042

and applied prior art, including all of the arguments advanced by both the examiner and appellants in support of their respective positions. This evaluation leads us to conclude that the examiner's § 103 rejection is not well founded for the reasons well articulated by appellants in their Brief and Reply Brief. We only wish to emphasize that the examiner has not demonstrated that Carpenter would have suggested to one of ordinary skill in the art to employ iminodiacetic acid in its composition and/or to use its composition for cleaning limescale from a surface. The examiner simply has not supplied any evidence that iminodiacetic acid would be useful for a composition used for cleaning a glycoside-containing substance, such as blood, fecal matter or microorganisms, from a surface. Nor has the examiner supplied any evidence that such composition can be used for, or is necessarily used in, cleaning limescale from a surface. On this record, we find no evidence that surfaces bound with a glycoside-containing substance are *necessarily* bound with limescale and that a composition useful for removing a glycoside-containing substance is also useful for removing limescale.

Appeal No. 2000-1038
Application No. 08/888,042

Under these circumstances, we are convinced that the examiner's § 103 rejection is fatally premised upon impermissible hindsight. See *W.L. Gore & Assocs. v. Garlock, Inc.*, 721 F.2d 1540, 1553, 220 USPQ 303, 312-13 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984). For the reasons indicated *supra*, we reverse the examiner's decision rejecting all of the appealed claims under 35 U.S.C. § 103.

REVERSED

CHUNG K. PAK)	
Administrative Patent Judge)	
)	
)	
)	BOARD OF PATENT
CATHERINE TIMM)	APPEALS AND
Administrative Patent Judge)	INTERFERENCES
)	
)	
)	
JAMES T. MOORE)	
Administrative Patent Judge)	

CKP:hh

Appeal No. 2000-1038
Application No. 08/888,042

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